

SUMMARY OF FACTS AND VIOLATIONS

In Re Compliance with RCW 42.17
Metropolitan Mortgage & Securities, Inc.
PDC Case No. 01-181

This document constitutes the factual basis for the Stipulation of Facts, Violations and Penalty presented to the Public Disclosure Commission on September 27, 2001. In the event that the Commission does not accept the Stipulation of Facts, Violations and Penalty, PDC Staff reserves the right to augment, amend, delete, or alter both the facts and violations listed below.

Facts

1. On January 10, 2001, Public Disclosure Commission staff filed a complaint alleging that the Metropolitan Mortgage & Securities Co. Inc. (Met Mortgage), Citizens for Fair and Open Government (CFOG), Spokane Municipal Election Council (SMEC), and the Spokane Voter Alliance (SVA) were affiliated entities and contributed in excess of \$5,000 to the John Talbott for Strong Mayor committee during the three week period before the General Election held on November 7, 2000, a violation of RCW 42.17.105(8).
2. On January 9, 2001, Public Disclosure Staff contacted Penny Moyer of CFOG, John Gutierrez of SMEC, and Mary Keller with Met Mortgage, informing them that the *Spokesman-Review* had requested a copy of a complaint staff intended to file the next day. An attempt was made to contact Brendon Hill to pass on the same information. PDC staff first faxed a copy of the complaint to the Respondents and the same day, in accordance with normal practice, faxed a copy to the *Spokesman Review*. On January 11, 2001, the *Spokesman-Review* ran a front page article on the complaint.
3. Met Mortgage fully cooperated with the investigation and voluntarily provided documents and other information to PDC staff.
4. John Talbott was elected Mayor of the City of Spokane in November, 1997 and began a four-year term of office in January, 1998. City of Spokane Proposition 2 was approved by the voters in November, 1999 and effectively changed the form of city government from council/manager to a Strong Mayor system. Passage of Proposition 2 caused election of a new mayor in 2000. Of the three mayoral candidates on the Primary Election ballot, two moved on to the General Election: John Powers and John Talbott. Powers was ultimately elected mayor.
5. Met Mortgage is a corporate entity based in Spokane, Washington. Met Mortgage is registered and reports to the PDC as a lobbyist employer. Erik

Skaggs became a corporate officer of Met Mortgage in the summer of 2000 and continued to be an officer until his departure from Met Mortgage on November 8, 2000. Skaggs testified to PDC staff that he was a volunteer and fundraiser for the Talbott campaign¹ and that he did volunteer fundraising for the CFOG, SVA and SMEC committees as well as occasionally advising those committees to ensure that they were complying with PDC reporting requirements.

6. CFOG initially registered as a political committee on September 8, 2000. CFOG's registration identified Gail Howard as the Campaign Manager or Media Contact and Penny Moyer as the Treasurer. An amended registration filed October 13, 2000 identified Brendon Hill as the Treasurer and Campaign Manager or Media Contact.² ([Exhibit 5](#)) CFOG filed PDC reports through January 13, 2001. CFOG asserts that it filed PDC reports in order to avoid allegations of hiding contributions, and contends that filing was not required because it engaged only in issue advocacy and public education. PDC Staff does not concur with this contention.
7. Erik Skaggs was instrumental in creating SMEC and SVA.
8. SMEC registered as a committee on November 2, 2000. SMEC's registration identified John Gutierrez as the Treasurer and Campaign Manager or Media Contact.³ ([Exhibit 6](#)) SMEC filed PDC reports through December 22, 2000. SMEC asserts that it filed PDC reports in order to avoid allegations of hiding contributions, even though it contends that filing was not required because it engaged only in issue advocacy and public education. PDC Staff does not concur with this contention. SMEC sought and received an employer identification number from the Internal Revenue Service. SMEC identified itself as a political action committee whose principal activity was "education."

SMEC did not open a bank account, had no funds, received no monetary contributions, and made no monetary expenditures. SMEC reported receiving an in-kind contribution from Met Mortgage, that was then reported by the Talbott Committee as an in-kind contribution from SMEC.

¹ Skaggs testified to PDC staff that his involvement with the Talbott campaign occurred prior to the Primary election. Talbott testified to PDC staff that he was unsure when Skaggs' involvement with his campaign ended, but he believed it was several weeks before the General Election. Skaggs placed a printing order with Sir Speedy Printing on November 3, 2000. The order lists "Erik" and Spokane Voter Alliance as the customer. The invoice was billed to and mailed to the Talbott Campaign.

² Although Hill is identified on the C-1pc, Penny Moyer of Northwest Accounting Services was paid to perform accounting services, including preparation of PDC reports, which were signed by Hill.

³ Although Gutierrez is identified on the C-1pc, Penny Moyer of Northwest Accounting Services was paid by CFOG to perform accounting services for SMEC, including preparation of PDC reports, which were signed by Gutierrez.

9. SVA registered as a committee on October 31, 2000. SVA's registration identified Rennie Howard as the Campaign Manager or Media Contact and Penny Moyer as the Treasurer. ([Exhibit 7](#)) Rennie Howard testified to PDC staff that she initially agreed to participate in SVA at the request of her employer, but left the committee two days later, before engaging in any activity when she realized that she would not be able to fulfill the time commitment. SVA did not file an amended C-1pc to reflect Howard's departure. SVA filed PDC reports through February 8, 2001. Penny Moyer was paid by CFOG to perform accounting services for SVA, including completing PDC reports. Portions of her work for SVA were conducted after consulting with Erik Skaggs, while he was employed first at Met Mortgage, and later at Worldwide Packets.

SVA did not open a bank account, had no funds, received no direct monetary contributions, and made no monetary expenditures. SVA reported receiving in-kind contributions from Met Mortgage, that were then reported by the Talbott Committee as in-kind contributions from SVA.

10. SVA engaged in a "get out the vote" (GOTV) campaign during the last week before the 2000 General Election. This activity was modeled after a 1999 GOTV campaign conducted by the Citizens Alliance PAC. The GOTV campaign conducted in 2000 expressly advocated the election of Talbott, Steve Corker (a candidate for city council president) and for two city charter proposals. ([Exhibit 8](#)) In addition to Skaggs, Met Mortgage employees Matt Bracy and Mary Keller, both volunteers from the GOTV campaign conducted by the Citizens Alliance PAC, volunteered for the GOTV campaign conducted in 2000. Their volunteer work, directed by Skaggs, was conducted primarily during the weekend preceding the general election, as well as the Monday and Tuesday of the week of the general election. Bracy and Keller contend they took personal leave time for those two days and were working for the campaigns on their own time.
11. In its response to a PDC Staff request for information, Met Mortgage asserted that it was not affiliated with any of the named Respondent committees because "no employee or officer of Met Mortgage serves as a director or officer of any of the Committees. Nor did any employee or officer of Met Mortgage have authority to control, direct or disburse the funds of any of the Committees." ([Exhibit 4](#)) Erik Skaggs, while he was Corporate Vice-President of Marketing & External Affairs for Met Mortgage, and subsequently when he was an employee of Worldwide Packets, initiated, subject to approval by another Met Mortgage officer, Met Mortgage expenditures which were reported as in-kind contributions from Met Mortgage to SMEC and SVA, and then, in turn, reported as in-kind contributions from SMEC and SVA to Talbott. ([Exhibits 8 and 9](#))

12. Skaggs testified to PDC staff that he was on leave from Met Mortgage beginning on October 18, 2000 and ending on November 8, 2000. A copy of his approved leave of absence request was produced by Met Mortgage for PDC staff. ([Exhibit 10](#)) The purpose of the leave of absence was to engage in personal interests, including political activity on a voluntary basis. Skaggs has participated in various local political campaigns for over ten years. During his leave of absence, Skaggs continued to initiate, subject to approval by another Met Mortgage officer, expenditures that constituted contributions to the Talbott Committee, and on occasion, directed the volunteer campaign activities of Bracy and Keller⁷. ([Exhibits 11 and 12](#))
13. Stan Shore testified to PDC staff that after doing three mailers for CFOG he approached CFOG representatives and suggested that CFOG do a final mailer to reinforce the message of the first three mailers.⁸ Shore was told that CFOG had lost credibility because of attacks by the media and others, and did not have any more money. Shortly thereafter, either Brendon Hill, CFOG's campaign chair, or Skaggs told Shore there was a new group that had agreed to do the final mailer. That group was SMEC. Shore testified to PDC staff that he invoiced SMEC \$9,000 on November 6, 2000 and sent the invoice by facsimile to Met Mortgage because he maintains Skaggs had agreed that Metropolitan would pay \$4,000 of the invoice. ([Exhibit 9](#)) Skaggs initiated authorization of Met Mortgage's partial payment of the Polis retainer in association with the mailer on November 8, 2000. ([Exhibit 14](#)) Metropolitan and SMEC maintain that the \$4,000 is not subject to contribution limits because the advertisement produced was an "issue" ad. PDC staff maintains the advertisement was not an issue ad. ([Exhibit 19](#))
14. During this same period of time, Skaggs ordered door hangers that were reported by SVA as an in-kind contribution from Met Mortgage, and as an in-kind contribution from SVA to the Talbott campaign.
15. Skaggs ordered 25,000 "Talbott/Corker" flyers on November 3, 2000 from Sir Speedy Printing. Sir Speedy invoiced the \$3,226.79 charge for the flyers in equal shares to the Talbott and Corker campaign committees. ([Exhibit 15](#)) The Talbott/Corker flyers carried the joint sponsor identification of "John Talbott for Strong Mayor" and "Corker for City Council President." ([Exhibit 15a](#)) The Talbott campaign paid its half of the Sir Speedy invoice on November 15, 2000. Skaggs, on December 11, 2000, when he was an employee of Worldwide Packets, requested that Penny Moyer prepare a disbursement of CFOG funds to pay Corker's half of the Sir Speedy invoice. (Exhibit 8, p. 4)

⁷Mary Keller and Rick Humphries were both employed in the Marketing Department of Met Mortgage.

16. Skaggs, through SVA, placed the initial order for 25,000 door hangers on October 30, 2000. ([Exhibit 16](#)) Subsequent orders were placed by Mary Keller. Sir Speedy was requested to send invoices for the door hangers to SVA. The door hangers expressly advocated voting for Talbott, Corker, and the Spokane City Charter propositions. ([Exhibit 16a](#)) Skaggs initiated a request that employees in his department to process Met Mortgage's in-kind contribution to SVA on November 8, 2000. Skaggs sought approval of the expenses from another Met Mortgage officer. ([Exhibit 17](#))
17. Skaggs initially initiated, subject to approval by another Met Mortgage officer, payments made by Met Mortgage that were reported as in-kind contributions to SMEC, SVA and the Talbott campaigns. ([Exhibits 12, 14, and 18](#))
18. Met Mortgage paid Sir Speedy \$2,082 on November 10, 2000. This was reported by SVA as an in-kind contribution from Met Mortgage for advertising pieces ordered by Erik Skaggs on October 30, 2000 and Mary Keller on November 3 and 6, 2000. ([Exhibit 15](#)) This was also reported by the Talbott Campaign as an in-kind contribution from SVA.
19. SMEC's only activity was to sponsor the final Stan Shore/Polis mailer, which was invoiced at \$9,000, \$4,000 of which was paid by Met Mortgage. The remaining \$5,000 has not been paid. ([Exhibit 22](#))
20. SVA reported incurring prior to the election, the following monetary debts, which were paid for by Met Mortgage after the election. The office space was provided prior to the election:
- | | |
|--------------------------|--------------------|
| Printing (door hangers): | \$ 2,082.43 |
| Office space: | 250.00 |
| Temporary labor | 10,882.57 |
| TOTAL | \$13,215.00 |
21. SVA also reported receiving an in-kind donation of office space contributed by Met Mortgage, including the use of a telephone.¹⁰ SVA's GOTV campaign expressly advocated the election of Talbott, Steve Corker (candidate for city council president) and two city charter proposals. Talbott received one-half of the benefit of the distribution of the Talbott/Corker flyer and approximately two-thirds of the benefit of the door hanger.
22. Met Mortgage contributed \$5,000 to the Talbott campaign on October 24, 2000. This was an in-kind contribution of "media time", and according to

¹⁰ The telephone number was printed on each door hanger.

RCW 42.17.105(8), represents the maximum amount Met Mortgage could contribute to Talbott during the 21 days preceding the general election.

23. The Talbott campaign reported receiving an in-kind contribution of \$5,000 from SMEC for a November 6 “mailer.” Talbott testified to PDC staff that he was not aware of the in-kind contribution until his campaign received a November 6 memorandum from SMEC advising them of the in-kind contribution. ([Exhibit 21](#))
24. The Talbott campaign reported receiving an in-kind contribution of \$3,278 from SVA on November 6, 2001 for “door hangers.” Talbott testified to PDC staff that he was not aware of the in-kind contribution until his campaign received a November 6 memorandum from SVA advising them of the in-kind contribution. However, part of the SVA contribution was temporary labor employed to distribute the door hangers and a Corker/Talbott flyer partially paid for by the Talbott campaign.

Violations

Staff alleges that Respondent violated RCW 42.17.105 when it incurred the following expenditures during the 21 days preceding the general election, and that constituted contributions to the Talbott campaign.

\$2,165 contribution through SVA for Talbott door hangers and office space
\$9,000 contribution through SMEC for Stan Shore’s final mailer

\$11,165 Total excess contributions from Met Mortgage to the Talbott Campaign.

Respectfully submitted this 10th day of September, 2001.

_____/s
Phil Stutzman
Director of Compliance

EXHIBIT LIST

Exhibit 4 Response received February 2, 2001 from Michael Vaska, attorney for Met Mortgage & Securities, Inc.

Exhibit 5 Citizens for Fair & Open Government C-1pc filed September 8, 2000.
CFOG, amended C-1pc filed October 13, 2000.

Exhibit 6 Spokane Municipal Election Council C-1pc filed November 2, 2000.

Exhibit 7 Spokane Voter Alliance C-1pc filed October 31, 2000.

Exhibit 8 October 3, 2000 E-mail from Erik Skaggs to Penny Moyer
October 30, 2000 E-mail from Erik Skaggs to Matt Bracy, Mary Keller, and Rick Humphries
November 29, 2000 E-mails between Penny Moyer and Erik Skaggs
December 11, 2000 E-mails between Penny Moyer and Erik Skaggs
December 12, 2000 E-mail from Erik Skaggs to Penny Moyer
January 2, 2001 E-mails between Penny Moyer and Erik Skaggs

Exhibit 9 Cassette tape – April 12, 2001 PDC staff interview of Stan Shore

Exhibit 10 Request for leave of absence (October 18 through November 7, 2000) submitted by Erik Skaggs and approved on October 18, 2000

Exhibit 11 October 24, 2000 E-mail from Erik Skaggs to Rick Humphries
November 3, 2000 E-mail from Erik Skaggs to Mary Keller

Exhibit 12 October 24, 2000 Met Mortgage payment request 933295

Exhibit 14 Met Mortgage payment request 934449

Exhibit 15 November 3, 2000 Sir Speedy Printing invoice #47950 and account detail for Talbott/Corker flyers ordered by Erik Skaggs (SVA)
November 6, 2000 Sir Speedy Printing invoice #47973 invoicing ½ of invoice #47950 to Talbott campaign
November 6, 2000 Sir Speedy Printing invoice #47974 invoicing ½ of invoice #47950 to Corker campaign

Exhibit 15a Talbott/Corker flyer

Exhibit 16 Sir Speedy Printing invoices for door hangers

Exhibit 16a Door hangers sponsored by SVA

Exhibit 17 November 8, 2000 E-mail from Erik Skaggs to Rick Humphries and copied to Mary Keller

Exhibit 18 November 9, 2000 Met Mortgage payment request 934451
November 9, 2000 Met Mortgage payment request 934450

Exhibit 19 “WHAT WILL HE DO IF HE’S MAYOR?” flyer sponsored by SMEC

Exhibit 21 November 6, 2000 memo from Spokane Municipal Election Council to Talbott campaign

Exhibit 22 November 6, 2000 Polis Political Services, Inc. invoice